

risk assessment to the Attorney General.

(e) An individual's security risk assessment may be expedited upon written request by the Responsible Official and a showing of good cause (e.g., public health or agricultural emergencies, national security, or a short term visit by a prominent researcher). A written decision granting or denying the request will be issued.

(f) An individual's access approval will be denied or revoked if the individual is within any of the categories described in 18 U.S.C. 175b,

(g) An individual's access approval may be denied, limited, or revoked if:

(1) The individual is reasonably suspected by any Federal law enforcement or intelligence agency of committing a crime specified in 18 U.S.C. 2332b(g)(5), knowing involvement with an organization that engages in domestic or international terrorism (as defined in 18 U.S.C. 2331) or with any other organization that engages in intentional crimes of violence, or being an agent of a foreign power (as defined in 50 U.S.C. 1801), or

(2) It is determined such action is necessary to protect public health and safety.

(h) An individual may appeal the HHS Secretary's decision to deny, limit, or revoke access approval under § 73.20.

(i) Access approval is valid for a maximum of five years.

(j) The Responsible Official must immediately notify CDC or APHIS when an individual's access to select agents or toxins is terminated by the entity and the reasons therefore.

#### § 73.11 Security.

(a) An individual or entity required to register under this part must develop and implement a written security plan. The security plan must be sufficient to safeguard the select agent or toxin against unauthorized access, theft, loss, or release.

(b) The security plan must be designed according to a site-specific risk assessment and must provide graded protection in accordance with the risk of the select agent or toxin, given its intended use. The security plan must be submitted upon request.

(c) The security plan must:

(1) Describe procedures for physical security, inventory control, and information systems control,

(2) Contain provisions for the control of access to select agents and toxins,

(3) Contain provisions for routine cleaning, maintenance, and repairs,

(4) Establish procedures for removing unauthorized or suspicious persons,

(5) Describe procedures for addressing loss or compromise of keys, passwords, combinations, etc. and protocols for changing access numbers or locks following staff changes,

(6) Contain procedures for reporting unauthorized or suspicious persons or activities, loss or theft of select agents or toxins, release of select agents or toxins, or alteration of inventory records, and

(7) Contain provisions for ensuring that all individuals with access approval from the HHS Secretary or Administrator understand and comply with the security procedures.

(d) An individual or entity must adhere to the following security requirements or implement measures to achieve an equivalent or greater level of security:

(1) Allow access only to individuals with access approval from the HHS Secretary or Administrator,

(2) Allow individuals not approved for access from the HHS Secretary or Administrator to conduct routine cleaning, maintenance, repairs, or other activities not related to select agents or toxins only when continuously escorted by an approved individual,

(3) Provide for the control of select agents and toxins by requiring freezers, refrigerators, cabinets, and other containers where select agents or toxins are stored to be secured against unauthorized access (e.g., card access system, lock boxes),

(4) Inspect all suspicious packages before they are brought into or removed from the area where select agents or toxins are used or stored,

(5) Establish a protocol for intra-entity transfers under the supervision of an individual with access approval from the HHS Secretary or Administrator, including chain-of-custody documents and provisions for safeguarding against theft, loss, or release,

(6) Require that individuals with access approval from the HHS Secretary or Administrator refrain from sharing with any other person their unique means of accessing a select agent or toxin (e.g., keycards or passwords).

(7) Require that individuals with access approval from the HHS Secretary or Administrator immediately report any of the following to the Responsible Official:

(i) Any loss or compromise of keys, passwords, combination, etc.,

(ii) Any suspicious persons or activities,

(iii) Any loss or theft of select agents or toxins,

(iv) Any release of a select agent or toxin, and

(v) Any sign that inventory or use records for select agents or toxins have been altered or otherwise compromised, and

(8) Separate areas where select agents and toxins are stored or used from the public areas of the building.

(e) In developing a security plan, an entity or individual should consider the document entitled "Laboratory Security and Emergency Response Guidance for Laboratories Working with Select Agents. Morbidity and Mortality Weekly Report December 6, 2002; 51:RR-19:1-6." The document is available on the Internet at: <http://www.cdc.gov/mmwr>.

(f) The plan must be reviewed annually and revised as necessary. Drills or exercises must be conducted at least annually to test and evaluate the effectiveness of the plan. The plan must be reviewed and revised, as necessary, after any drill or exercise and after any incident.

#### § 73.12 Biosafety.

(a) An individual or entity required to register under this part must develop and implement a written biosafety plan that is commensurate with the risk of the agent or toxin, given its intended use. The biosafety plan must contain sufficient information and documentation to describe the biosafety and containment procedures.

(b) The biosafety and containment procedures must be sufficient to contain the select agent or toxin (e.g., physical structure and features of the

entity, and operational and procedural safeguards).

(c) In developing a biosafety plan, an individual or entity should consider:

(1) The CDC/NIH publication, "Biosafety in Microbiological and Biomedical Laboratories", including all appendices. Copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 371954, Pittsburgh, Pennsylvania, 75250-7954 or from the CDC Web site at <http://www.cdc.gov/>. Copies may be inspected at the Centers for Disease Control and Prevention, 1600 Clifton Road, Mail Stop E-79, Atlanta, Georgia.

(2) The Occupational Safety and Health Administration (OSHA) regulations in 29 CFR parts 1910.1200 and 1910.1450.

(3) The "NIH Guidelines for Research Involving Recombinant DNA Molecules," (NIH Guidelines). Copies may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, Mail Stop E-79, Atlanta, Georgia, 30333 or from the CDC Web site at <http://www.cdc.gov/>. Copies may be inspected at the Centers for Disease Control and Prevention, 1600 Clifton Road, Mail Stop E-79, Atlanta, Georgia.

(d) The plan must be reviewed annually and revised as necessary. Drills or exercises must be conducted at least annually to test and evaluate the effectiveness of the plan. The plan must be reviewed and revised, as necessary, after any drill or exercise and after any incident.

#### § 73.13 Restricted experiments.

(a) An individual or entity may not conduct a restricted experiment with a HHS select agent or toxin unless approved by and conducted in accordance with any conditions prescribed by the HHS Secretary. In addition, an individual or entity may not conduct a restricted experiment with an overlap select agent or toxin unless approved by and conducted in accordance with any conditions prescribed by the HHS Secretary, after consultation with Administrator.

(b) Restricted experiments:

(1) Experiments utilizing recombinant DNA that involve the deliberate